IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.4492 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr.D.A.Dubey with Mr. Y.R. Mishra,
for the Petitioners.
Respondent present in person.

CORAM : F.I. REBELLO & S.P. KUKDAY,JJ.
DATED : 16TH FEBRUARY, 2005

P.C.

. The respondent filed O.A. No.809 of 2001 before the Central Administrative Tribunal on the ground that the pay of his junior was refixed and consequently his pay also should be refixed to the level of his junior as on 1st December, 1997. The Tribunal noted that the petitioners herein had not denied that there is an anomaly in fixing the pay scale of the respondent vis-a-vis Smt. S.D. Vaswani. The Tribunal, therefore, noted that it was a genuine case where a stepping up of pay of the applicant to that of his junior Smt. Vaswani is required to be considered. In paragraph 7 directions were issued for refixing the pay of the respondent. The

benefit,however was given to the respondent only from one year prior to the date of filing i.e. from 20th November, 2000. The petitioners herein aggrieved preferred a Review Application. That Review Application was dismissed on 22nd August, 2002. The learned Tribunal in paragraph 4 of the Review order was pleased to observe as under:-

> "We have perused the grounds taken in the review petition for review. According to us, having allowed the OA, it goes without saying that the applicant was entitled to all the consequential benefits and, therefore, though the pay was to be fixed notionally from 20-11-2000, his pension also would have to be enhanced notionally and arrears shall become payable only from 20-11-2000 onwards. According to us, therefore, the applicant shall be entitled to enhanced pension from 20-11-2000. Therefore, the order does not call for any review. Thus, on the ground of limitation as well as on merits, the review petition is dismissed."

This is the order which is the subject

matter of the present petition. We do not find that the original order of the Tribunal suffers from any error apparent on the face of the record, but we find that the order in review there is an apparent mistake considering the order dated 10th April, 2002. The Tribunal in its order dated 10th August, 2002 in paragraph 7 had directed refixing of pay one year previous to 20th November, 2000. In other words it would be from 20th November, 1999. Considering the above though the petitioner has not approached us this would be a fit case for this Court to exercise the supervisory jurisdiction and correct the said order. In the light of that though we are not interfering with the ultimate order passed by the Tribunal we direct that the benefits including pay and pension payable to the respondent herein will be from 20th November, 1999 in terms of the order dated 10th April, 2002. To that extent the order in review in paragraph 4 stand corrected accordingly. If the petitioners have not paid the benefits including refixing of pension as of today, they are directed to comply with the same at any rate not later than three months from today.

. With the above directions Writ

Petition disposed off.

. Personal Secretary of this Court to issue authenticated copy to the parties.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)